Covid-19 Circuit Breaker Measures - Asset Management

On 3 April 2020, the Singapore Multi-Ministry Taskforce announced that an elevated set of safe distancing measures will be in place from 7 April 2020 until 4 May 2020.

These enhanced measures aim to act as a circuit breaker to control the spread of COVID-19 in Singapore by minimising movements and interaction in public and private places.

Notably, there will be a suspension of activities at all workplace premises, subject to certain exemptions for selected essential services ("Essential Services").

Our firms' general client update is available for your reference here.

Entities providing asset management services ("Fund Management Companies") are included as providers of Essential Services.

This is stated in the announcement to be "portfolio management and trading, trade settlement and operations, trustee services, processing of subscriptions and redemptions in fund units, financial advisory".

Fund Management Companies are consequently exempted from the nation-wide suspension of business activities ("Suspension"), and may continue to perform asset management services and operate from their workplace premises, subject to safe distancing measures being put in place.

Notwithstanding that Fund Management Companies are exempted from the Suspension, the baseline requirement is that all entities will need to ensure that all activities of any employee that can take place through telecommuting should be implemented, and performed from the employee’s home. An employer is expected to provide them with the necessary facilities to do so.

Accordingly, the exception for operating in the office premises should be applied only where it is not reasonably practicable for an employee to perform the employees’ activities from home.

It would be advisable for Fund Management Companies to therefore operate with the minimum staff on their premises, and require employees to be at the office premises only for critical functions that need to be performed there, and only for the duration required for such critical functions to be performed.

Fund Management Companies intending to continue operating in their workplace premises need to ensure that there are enhanced safe distancing measures being implemented.
Funds and Investment Management

Notwithstanding the exemption, if Fund Management Companies do wish to operate from their premises, even if for limited periods of time, note that there is a requirement for all providers of Essential Services to make a submission of their plans to the authorities for review by 13 April 2020. The MAS has clarified that financial institutions ("FIs") should send these plans to their MAS review officer upon request to do so.

The link to make this submission is via https://covid.gobusiness.gov.sg.

In addition, the MAS issued its circular on 6 April 2020 which stipulates that FIs that require more than 25% of their staff onsite will need to submit their justifications to the MAS by 10 April 2020 using the prescribed format.

Fund Management Companies that do not adopt enhanced safe distancing measures at the workplace may be ordered to cease operations until measures are put in place to the satisfaction of the authorities.

The expectation is that regulations will be passed legislating the matters made in the announcement, and accordingly, our note is subject to more detailed regulations that may follow.

In particular, there is no qualification that the exemption applies only to Fund Management Companies who are regulated ie LFMCs, VCFM's and RFMCs. In the absence of any express restriction in the scope of entities performing "asset management services", as at the date of this note, it would appear that single family offices and managers operating under the immovable asset exemption would also fall under the exemption from the Suspension.

The non-exhaustive description of asset management services also appears to include a segment of activities typically performed by trustees and fund administrators.

Such persons may qualify as being a business supporting an Essential Service and are advised to make an application for an exemption also via https://covid.gobusiness.gov.sg.

As this is an evolving landscape of regulations, the authorities may issue additional regulatory guidance or changes to adapt to the rapidly changing situation.

We will be providing further updates as the situation evolves.

Please feel free to reach out to us if you have any queries.

For more articles and updates from our teams across the region on COVID-19 and related legal issues, please visit Rajah & Tann Asia’s COVID-19 Resource Centre.
Contacts

Arnold Tan
Co-head, Funds and Investment Management
T +65 6232 0701
arnol.tan@rajahtann.com

Anne Yeo
Co-head, Funds and Investment Management
T +65 6232 0628
anne.yeo@rajahtann.com

Jasmine Chew
Partner
Funds and Investment Management
T +65 6232 0454
jasmine.chew@rajahtann.com

Philip Yeo
Partner
Funds and Investment Management
T +65 6232 0487
philip.yeo@rajahtann.com

Carmen Lee
Partner
Funds and Investment Management
T +65 6232 0610
carmen.lee@rajahtann.com

Please feel free to also contact Knowledge and Risk Management at eOASIS@rajahtann.com
Client Update: Singapore
2020 APRIL

Our Regional Contacts

RAJAH & TANN | Singapore
Rajah & Tann Singapore LLP
T +65 6535 3600
sg.rajahtannasia.com

CHRISTOPHER & LEE ONG | Malaysia
Christopher & Lee Ong
T +60 3 2273 1919
F +60 3 2273 8310
www.christopherleeong.com

R&T SOK & HENG | Cambodia
R&T Sok & Heng Law Office
T +855 23 963 112 / 113
F +855 23 963 116
kh.rajahtannasia.com

RAJAH & TANN | Myanmar
Rajah & Tann Myanmar Company Limited
T +95 1 9345 343 / +95 1 9345 346
F +95 1 9345 348
mm.rajahtannasia.com

RAJAH & TANN 立杰上海
SHANGHAI REPRESENTATIVE OFFICE | China
Rajah & Tann Singapore LLP
Shanghai Representative Office
T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

GATMAYTAN YAP PATACSIL
GUTIERREZ & PROTACIO (C&G LAW) | Philippines
Gatmaytan Yap Patacsl Gutierrez & Protacio (C&G Law)
T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

ASSEGAF HAMZAH & PARTNERS | Indonesia
Assegaf Hamzah & Partners
Jakarta Office
T +62 21 2555 7800
F +62 21 2555 7899

RAJAH & TANN | Thailand
R&T Asia (Thailand) Limited
T +66 2 656 1991
F +66 2 656 0833
th.rajahtannasia.com

Surabaya Office
T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

RAJAH & TANN | Vietnam
Rajah & Tann LCT Lawyers
Ho Chi Minh City Office
T +84 28 3821 2382 / +84 28 3821 2673
F +84 28 3520 8206

Hanoi Office
T +84 24 3267 6127
F +84 24 3267 6128
www.rajahtannlct.com

RAJAH & TANN | Lao PDR
Rajah & Tann (Laos) Co., Ltd.
T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

Rajah & Tann Asia is a network of legal practices based in South-East Asia. Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This Update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this Update.
Our Regional Presence

Rajah & Tann Singapore LLP is one of the largest full-service law firms in Singapore, providing high quality advice to an impressive list of clients. We place strong emphasis on promptness, accessibility and reliability in dealing with clients. At the same time, the firm strives towards a practical yet creative approach in dealing with business and commercial problems. As the Singapore member firm of the Lex Mundi Network, we are able to offer access to excellent legal expertise in more than 100 countries.

Rajah & Tann Singapore LLP is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Rajah & Tann Singapore LLP and subject to copyright protection under the laws of Singapore and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Rajah & Tann Singapore LLP.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business and operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Rajah & Tann Singapore LLP or email Knowledge & Risk Management at eOASIS@rajahtann.com.